

**LOCAL RULES OF CRIMINAL PRACTICE AND PROCEDURE  
FOR THE MONROE CIRCUIT COURT**

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## **RULE CR-1**

### **STATEMENT OF PRINCIPLES**

The Criminal Rules of the Monroe Circuit Court are intended:

- A. To promote a fair and expeditious determination of the charges, whether by plea or trial;
- B. To provide the defendant with sufficient information to make an informed plea;
- C. To permit thorough preparation for trial and minimize surprise at trial;
- D. To avoid unnecessary and repetitious trials by identifying any latent procedural or constitutional issues and affording remedies therefore prior to trial;
- E. To reduce interruptions and complications of trials by identifying collateral issues and determining them prior to trial; and
- F. To effect economies of time, money and judicial and professional talents by minimizing paperwork, repetitious assertions of issues, and the number of separate hearings.

## **RULE CR-2**

### **DISCLOSURE BY THE PROSECUTING ATTORNEY**

A. **SCOPE:** The prosecuting attorney shall, except as otherwise provided by these rules, disclose and provide to the defendant the following information:

1. The names, addresses, and telephone numbers of all persons who may be called as witnesses in the case, together with copies of their written or recorded statements and any record of their prior criminal convictions;
2. Copies of any written or recorded statements and a written summary of any oral statements, related to the case, made by the defendant or made by a co-defendant;
3. A copy of the grand jury minutes containing testimony of person from whom testimony was taken in the case;
4. Copies of any reports or statements of expert or skilled witnesses related to the case, including results of physical or mental examinations scientific tests, experiments, or comparisons;
5. The terms of any agreements made with co-defendants or other witnesses to secure their testimony, including any written documentation thereof;
6. Identification of any books, papers, documents, photographs, or other tangible objects which may be offered as evidence in the case or which were obtained from or belong to the defendant;
7. Copies of affidavits for search warrants, search warrants, and returns made on search warrants;
8. Whether any relevant grand jury testimony has not been transcribed;
9. Whether any existing material or information subject to these rules is not then available to the prosecuting attorney for disclosure to the defendant;
10. Whether any material or information related to the case has been provided by an informant;

11. If there has been any electronic surveillance or wiretapping of the defendant's premises or conversations to which the defendant was a party; and
12. If requested by the defendant, of any relationship of specified persons to the prosecuting attorney.

B. EXCULPATORY OR MITIGATING INFORMATION: The prosecuting attorney shall disclose to the defendant any material or information known to the prosecuting attorney which would tend to negate the guilt of the defendant as to the offense charged or which would tend to mitigate any sentence imposed in the event of a conviction.

C. EXAMINATION OF EVIDENCE: The prosecuting attorney shall permit inspection, copying, photographing, and testing of all evidence disclosed under these rules at reasonable times and places and under reasonable terms and conditions to insure against loss of, damage to, or alteration of the character or integrity of the evidence.

D. APPLICATION TO OTHERS: The prosecuting attorney's duties to disclose information and evidence under this rule include material and information in the possession and control of the prosecuting attorney's staff and employees, of any other persons who have participated in the investigation and evaluation of the case, of any other persons who regularly report to the prosecuting attorney, and of any other persons who have reported to the prosecuting attorney with reference to the charge filed.

### **RULE CR-3**

#### **DISCLOSURE BY THE DEFENDANT**

A. **SCOPE:** The defendant shall, subject to constitutional limitations and except as otherwise provided by these rules, disclose to the prosecuting attorney:

1. The names, addresses and telephone numbers of all persons who may be called as witnesses in the case, together with copies of their written or recorded statements;
2. Copies of any reports or statements of expert or skilled witnesses related to the case, including results of physical or mental examinations, scientific tests, experiments, or comparisons, intended to be offered as evidence in the case;
3. Identification of any books, papers, documents, photographs, or other tangible objects which may be offered as evidence in the case; and
4. Identification of any affirmative defenses upon which the defendant intends to rely in the case.

B. **EXAMINATION OF EVIDENCE:** The defendant shall permit inspection, copying, photographing, and testing of all evidence disclosed under these rules at reasonable times and places and under reasonable terms and conditions to insure against loss of, damage to, or alteration of the character or integrity of the evidence.

C. **ADDITIONAL DISCLOSURE UPON ORDER OF COURT:** The Court may, subject to constitutional limitations, require a defendant or a suspect in an investigation:

1. To appear in a line-up;
2. To speak, and to speak specific words, within the hearing of witnesses to an alleged offense;
3. To pose for photographs not involving the reenactment of alleged events;
4. To provide handwriting specimens;
5. To be fingerprinted;

6. To don specified articles of clothing;
7. To submit to reasonable physical or medical inspections;
8. To submit to the taking of specimens of material from under fingernails and toenails; and
9. To submit to the taking of samples of blood, hair, and other bodily substances and materials;

D. REASONABLE CAUSE AND NOTICE: A suspect not charged with an offense shall be required to appear pursuant to Section (C) only after a determination by the Court that there is reasonable cause to require the person to appear for the specified purpose. A defendant or suspect ordered to appear for a purpose specified in Section (C) shall be given reasonable advance written notice specifying the purpose of the appearance, the place at which the person must appear, and the date, time, and length of time required for the appearance. Such notice shall be provided to the person and the person's attorney, if any and the attorney shall have the right to the present.

## **RULE CR-4**

### **GENERAL RULES PERTAINING TO DISCOVERY**

A. **REQUIREMENT OF COURT ORDER:** No written motion to, or order of, the Court shall be required to obtain discovery pursuant to these rules, except:

1. For additional discovery or disclosure not specifically required by these rules;
2. For an extension of time within which to comply with these rules, specifying the reasons for the extension;
3. For a protective order; or
4. To complete compliance with these rules.

B. **TIMING OF DISCLOSURE:** The prosecuting attorney shall provide full discovery to the defendant:

1. Within twenty-one (21) days after the initial hearing in a felony case, or
2. Within fifteen (15) days (a) after an attorney's appearance for the defendant, or (b) after a pro se defendant's request, in a misdemeanor case.

The defendant shall provide full discovery to the prosecuting attorney:

1. Within twenty-one (21) days after disclosure by the prosecuting attorney in a felony case, and
2. Within fifteen (15) days after disclosure by the prosecuting attorney in a misdemeanor case.

C. **CONTINUING DUTY:** The duty of disclosure pursuant to these rules continues until dismissal, acquittal, or conviction and a party shall disclose all information and material subject to these rules or other order of the Court promptly after discovery thereof, notwithstanding any prior compliance with these rules.

D. **MANNER OF DISCLOSURE:** All disclosures required by these rules shall be made in writing or, if first discovered during hearing or trial, on the record in open court.

E. **WORK PRODUCT:** Neither party shall be required to disclose work product.



F.        EXCISION:    Tangible items which are in part subject to these rules and in part beyond the scope of these rules shall be excised and produced to the extent required by these rules, with notice to the other party that portions thereof have been excised.

G.        PROTECTIVE ORDERS:    Disclosure required by these rules may be denied or subjected to reasonable limitations if the Court, after motion by either party determines that any benefit of the disclosure is outweighed by a substantial risk to any person of physical harm, non-physical injury or damage, undue embarrassment, or other compelling factor.

H.        IN CAMERA EXAMINATION:    Any tangible item or information which becomes the subject of a motion for protective order may be examined, inspected or otherwise evaluated by the Court in camera. Upon order of the Court granting such relief, in summary of the protected information, shall be sealed and preserved in the record of the case.

I.        IMPEDING INVESTIGATION PROHIBITED:    Neither party shall, directly or indirectly, advise any person to refuse to discuss the case with the other party, advise any person to refuse to disclose any relevant information or material to the other party, or otherwise impede the other party's investigation of the case, except as may be authorized by constitutional provision, the statutes of this State, or common law privilege.

J.        SANCTIONS:    Upon failure or refusal of either party to comply with these rules or other discovery orders of the Court, the Court may impose sanctions.

## **RULE CR-5**

### **PRETRIAL CONFERENCES**

A. **NUMBER; ORDERS AND REPORTS:** One or more pretrial conferences may be required at the discretion of the Court. All attorneys of record are required to appear at and participate in all required pretrial conferences. The Court shall make or require an appropriate order or report after a required pretrial conference.

B. **PRESENCE OF DEFENDANT:** The defendant may be required, by order of the Court, to attend pretrial conferences.

C. **SCOPE:** All pretrial conferences shall address with specificity:

1. The names of all persons, including addresses and telephone numbers upon request of the opposing party, intended to be called to testify at pretrial hearings or at trial;
2. The identification of all tangible items intended to be offered as exhibits at pretrial hearings or at trial;
3. All stipulations of testimony and fact concerning matters not in material dispute which may aid in expediting pretrial hearings or the trial;
4. The identification of all motions to dismiss, motions to suppress evidence, questions of law, and procedural issues which can and should be resolved prior to trial to expedite the trial of the case;
5. The anticipated necessity of further discovery by either party and the reasonable length of time required to complete it; and
6. The tender of any proposed plea and/or sentencing agreement by the prosecuting attorney and the response of the defendant thereto.

D. **WAIVER OF ISSUES:** All motions to dismiss, motions to suppress evidence, question of law, and procedural issues known to the parties on the basis of the information then available and not specifically identified for pretrial resolution in the pretrial order are waived.

## **RULE CR-6**

### **TRIAL SCHEDULE**

Except as may be required for compliance with Criminal Rule 4 of the Indiana Rules of Criminal Procedure or other just cause determined by the Court, cases will be scheduled and called for trial according to the earliest date of filing. However, all cases scheduled for trial remain on the trial docket, unless continued on order of the Court.

## **RULE CR-7**

### **CONTINUANCES**

A. **REQUIREMENT OF MOTIONS:** All motions for continuance shall be filed with the Court in writing, shall state the precise reason for the continuance requested, and will be granted by the Court only for good cause.

B. **CONFLICTING SETTINGS:** All motions for continuance based on conflicting case settings shall be filed within fourteen (14) days after notice of the conflict and shall specify:

1. The court in which the conflicting case is pending;
2. The name and cause number of the case;
3. The nature of the conflicting hearing or trial; and
4. The date upon which the other court scheduled the conflicting setting.

C. **FURTHER DISCOVERY:** Continuances for the purpose of conducting further discovery may be granted for good cause shown. However, no continuances for the purpose of discovery filed more than six (6) months after the initial hearing will be granted by the Court, absent demonstration by the moving party that need for the additional discovery could not have been anticipated, or that the discovery could not have been completed by the exercise of due diligence.

D. **UNAVAILABILITY OF WITNESSES:** Any motion for continuance based on the unavailability of a witness shall be filed at least seven (7) days before the scheduled trial date. Any such motion filed more than six (6) months after the initial hearing, or any such motion to which an objection is filed, must comply with I.C. 35-36-7-1 or I.C. 35-36-7-2.

## **RULE CR-8**

### **APPEARANCE OF DEFENSE COUNSEL**

A. **WRITTEN APPEARANCE:** An attorney must file a written appearance for the defendant at the earliest possible time after being retained by the defendant or appointed by the Court to represent the defendant.

B. **WITHDRAWAL OF APPEARANCE:** An attorney's appearance on behalf of a defendant may be vacated or withdrawn only after a hearing in the presence of the defendant. The defendant's presence will not be required upon the attorney's demonstration at the hearing of the inability to locate the defendant.

C. **WAIVER OF HEARING:** The hearing required in Section (B) is waived if another attorney has entered a written appearance on behalf of the defendant.

D. **WITHDRAWAL BASED ON NONPAYMENT OF FEES:** An attorney's motion to vacate or withdraw his appearance on behalf of a defendant, based solely upon the defendant's failure to pay the attorney's fee, will not be granted (1) if filed more than six months after the initial hearing or (2) if filed less than thirty days before a trial date scheduled within the first six months after the initial hearing.

E. **DURATION OF APPEARANCE:** An attorney's appearance on behalf of a defendant is deemed to be vacated or withdrawn after the time permitted to file a praecipe for the purposes of appealing a disposition on the merits has elapsed and an appeal has not been initiated. If an appeal is initiated, the attorney remains of record for the defendant until the appeal is concluded or the appearance is otherwise vacated pursuant to this rule.